

REMARKS

The Applicants have carefully considered the official action dated August 20, 2008, and the references cited therein. In the official action, claims 2, 3, 16, and 17 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite; claims 1, 15, and 26 were objected to over formalities; claims 1-7, 15-19, and 26 were rejected under 35 U.S.C. § 103(a) as unpatenable over Hollman et al. (U.S. 7,146,000) in view of Sibbitt et al. (U.S. 5,065,392); and claims 8-11, 13, 14, and 20-25 were rejected under 35 U.S.C. § 103(a) as unpatenable over Hollman et al. in view of Sibbitt et al., and further in view of Chiu et al. (U.S. 6,597,689). By way of this response, the Applicants have amended claims 1, 2, 15, 16, 19, and 26. In view of the foregoing amendments and the following remarks, the Applicants respectfully traverse the rejections and submit that all claims are in condition for allowance. Favorable reconsideration is respectfully requested.

I. The Rejections under 35 U.S.C. § 112, Second Paragraph

In the foregoing amendments, the Applicants amended claims 2 and 16 to delete the language “for routing the customer data during the predetermined time period.” This amendment is made to clarify the scope of claims 2, 3, 16, and 17. Accordingly, the Applicants respectfully submit that claims 2, 3, 16, and 17 comply with 35 U.S.C. § 112, second paragraph and respectfully request withdrawal of the § 112 rejections therefrom.

II. Claim Objections

The Applicants have amended claim 15 to include the definite article “the” before the fourth recitation of “at least one network device.” In the official action, claims 1 and 26 were objected to as well over the same language. However, there is no antecedent basis to include the term “the” at the same location for claims 1 and 26. Accordingly, the Applicants respectfully submit that the amendment to claim 15 overcomes the claim objections and respectfully request withdrawal of the objections from claims 1, 15, and 26.

III. The Rejections under 35 U.S.C. § 103(a)

1. Independent Claim 1

The Applicants respectfully submit that independent claim 1 is allowable over the applied art. Independent claim 1 is directed to a method that involves, *inter alia*, provisioning at least one logical circuit comprising specifying a threshold value associated with at least one of a committed information rate or a committed burst size and configuring the at least one logical circuit to discard a frame communicated via the at least one logical

circuit in response to determining that the threshold value has been exceeded. Neither Hollman et al. nor Sibbitt et al. describe or suggest provisioning at least one logical circuit comprising specifying a threshold value associated with at least one of a committed information rate or a committed burst size and configuring the at least one logical circuit to discard a frame communicated via the at least one logical circuit in response to determining that the threshold value has been exceeded.

Hollman et al. describe an order entry system (102) that works with a customer or salesperson through a remote computer (116) to take an order for the customer. *Hollman et al.*, 3:58-60. In addition, Hollman et al. describe that the dialog with the customer or salesperson is conducted based on information such as capacity and availability determined by a routing engine (106). *Id.*, 3:60-64. However, Hollman et al. do not describe provisioning at least one logical circuit comprising specifying a threshold value associated with at least one of a committed information rate or a committed burst size and configuring the at least one logical circuit to discard a frame communicated via the at least one logical circuit in response to determining that the threshold value has been exceeded as recited in claim 1. Sibbitt et al. do not overcome the deficiencies of Hollman et al.

In view of the foregoing, the Applicants respectfully submit that no combination of Hollman et al. and Sibbitt et al. can describe or suggest each and every element recited in claim 1 and, thus, cannot render claim 1 *prima facie* obvious. Accordingly, the Applicants respectfully submit that independent claim 1 and all claims dependent thereon are in condition for allowance.

2. Independent Claim 15

The Applicants respectfully submit that independent claim 15 is also allowable over the applied art. Independent claim 15 is directed to a system that includes, *inter alia*, a network management module to provision at least one logical circuit comprising specifying a threshold value associated with at least one of a committed information rate or a committed burst size and configuring the at least one logical circuit to discard a frame communicated via the at least one logical circuit in response to determining that the threshold value has been exceeded. For at least the reasons discussed above in connection with independent claim 1, the Applicants respectfully submit that neither Hollman et al. nor Sibbitt et al. describe this language. Thus, no combination of Hollman et al. nor Sibbitt et al. can describe or suggest or suggest each and every element recited in claim 15 and, thus, cannot render claim 15 *prima*

facie obvious. Accordingly, the Applicants respectfully submit that independent claim 15 and all claims dependent thereon are in condition for allowance.

3. Independent Claim 26

The Applicants respectfully submit that independent claim 26 is also allowable over the applied art. Independent claim 26 is directed to a method that involves, *inter alia*, provisioning at least one logical circuit comprising specifying a threshold value associated with at least one of a committed information rate or a committed burst size and configuring the at least one logical circuit to discard a frame communicated via the at least one logical circuit in response to determining that the threshold value has been exceeded. For at least the reasons discussed above in connection with independent claim 1, the Applicants respectfully submit that neither Hollman et al. nor Sibbitt et al. describe this language. Thus, no combination of Hollman et al. nor Sibbitt et al. can describe or suggest each and every element recited in claim 26 and, thus, cannot render claim 26 *prima facie* obvious. Accordingly, the Applicants respectfully submit that independent claim 26 and all claims dependent thereon are in condition for allowance.

IV. Conclusion

In view of the foregoing, the Applicants respectfully request an early favorable action on the merits. If there are any remaining matters that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below.

The Commissioner is hereby authorized to charge any deficiency in the amount submitted or any additional fees which may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 50-2455. Please refund any overpayment to Hanley, Flight & Zimmerman, LLC, at the address below.

The Commissioner is authorized to charge any deficiency in the submitted payment toward payment of any fee due for the filing of this paper to deposit account number 50-2455. In addition, if a petition for an extension of time under 37 CFR 1.136(a) is necessary to maintain the pendency of this case and is not otherwise requested in this case, the Applicants request that the Commissioner consider this paper to be a petition for an appropriate extension of time and hereby authorize the Commissioner to charge the fee as set forth in 37 CFR 1.17(a) corresponding to the needed extension of time to the above deposit account.

Respectfully submitted,

Dated: **November 14, 2008**

Hanley, Flight & Zimmerman, LLC
(at customer number 34431)
150 South Wacker Drive
Suite 2100
Chicago, Illinois 60606
312.580.1020

/Felipe Hernandez/

Felipe Hernandez
Registration No. 61,971
Agent for Applicants